

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARK ELLIS KING,

Defendant-Appellant.

UNPUBLISHED

May 17, 2005

No. 252184

Midland Circuit Court

LC No. 03-001370-FH

Before: Murphy, P.J., and White and Smolenski, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of possession of marijuana, second offense, MCL 333.7403(2)(d) and MCL 333.7413(2), and felon in possession of a firearm, MCL 750.224f. He was sentenced to a two-year probationary term as an habitual offender under MCL 769.10. Defendant appeals as of right, and we affirm.

Police conducted a search of defendant's home and outbuildings based on the consent of defendant's wife. At the hearing on defendant's motion to suppress the evidence of marijuana and weapons found during this search, defendant's wife testified that she was coerced into consenting to the search because she believed that she could have lost her children if she failed to cooperate. This belief was based on the police officer's alleged reference to her children. The court determined that the consent was not coerced.

The validity of a consent is determined under the totality of the circumstances. *People v Galloway*, 259 Mich App 634, 648; 675 NW2d 883 (2003). The trial court's factual determinations regarding the validity of a consent are reviewed for clear error, with deference given to the trial court's resolution of conflicting evidence and witness credibility. *People v Farrow*, 461 Mich 202, 209; 600 NW2d 634 (1999). The trial court determined that defendant's wife was understandably upset by the officer's accusations, in light of the fact that defendant had told her that he was no longer doing drugs. She wanted to demonstrate to the police that no drugs were in the home and, therefore, consented to the search. The trial court's interpretation of the evidence was not clearly erroneous.

Defendant also argues that the evidence was insufficient to support his convictions, but provides only a statement of the law. Presumably, this argument is based on defendant's contention that the search was illegal, and therefore the evidence should have been suppressed.

Because we have determined that the search was conducted pursuant to a valid consent, the evidence was admissible and, therefore, sufficient to support defendant's convictions.

Affirmed.

/s/ William B. Murphy
/s/ Helene N. White
/s/ Michael R. Smolenski